

Approved For Release 2003/03/06 : CIA-RDP86-00101R000100070025-0

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TITLE ~~III~~
IV

Office of Legislative Counsel

3 February 1978

Mr. Pat Norton
Select Committee on Intelligence Staff
United States Senate
Washington, D.C. 20510

Dear Pat:

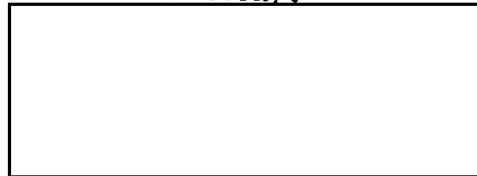
When I sent Keith a short note yesterday relating to the allowances and benefits section of the CIA title, I mentioned we might suggest some further changes to sections 321, 322 and 325. We have looked at sections 321(a) and (j), 322(a) and 325(a) and (b). The suggested amendments would, I think, clarify and avoid duplication regarding the Agency's authorities to expend funds for various activities and purposes and its procurement authority. In addition, I have included language that would provide the Director of the Agency with authority similar to that provided the DNI in Title I to expend funds for extraordinary or emergency purposes; this is necessary to allow him to expend for such purposes funds for activities not necessarily authorized by this Act. This authority would be subject to approval by the DNI and the exercise thereof would be reported to the Congress by the DNI according to the pertinent provisions in Title I.

Please let me know what you think of this. I am sending it to you directly since I am not sure whether Keith is working on these particular sections.

One unrelated item--the provision in section 341(b) that the Director approve regulations with respect to allowances and benefits should, I believe, and as we discussed earlier with Keith, be phrased "may approve" rather than "shall approve" as presently worded.

We are continuing to review all the draft material and will be back in touch early next week. Thank you.

Sincerely,



Assistant Legislative Counsel

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Enclosure

* * *

GENERAL AUTHORITIES OF THE AGENCY

Sec. 321. (a) In carrying out its functions under this Act, the Agency is authorized to--

* * *

[AMEND 321(a)(5) to read as follows]:

rent at the seat of government and elsewhere; lease of buildings to the Government without regard to the limitations prescribed in section 322 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending 30 June 1933, and for other purposes," approved 30 June 1932 (40 U.S.C. 278a); or acquire, construct, or alter buildings and facilities without regard to the Public Buildings Act of 1959 (40 U.S.C. 601-615); and repair, rental, operation, and maintenance of buildings, utilities, facilities, and appurtenances;

[This language combines the provisions in present section 321(a)(5) and 325(a)(3) so as to put in one place the necessary authorities relating to rent, lease, purchase and alteration of real property.]

[ADD] (13) health-service programs as authorized by section 7901 of title 5, United States Code; [This language is picked up from section 325(a)(3).]

[ADD] (14) subject to policies established by the Director, transportation of officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment where such personnel are engaged in work which makes such transportation necessary;

[This language is picked up from section 325(a)(3). The provision in 325(a)(3) goes on to provide for transportation of dependents to and from school. Since this authority is included for Government employees abroad in section 1138a, title 22, United States Code, which in our view would be picked up by authority of section 341(b)(2) of this draft, in our view inclusion in this section would be unnecessary.]

[ADD] (15) settlement and payment of claims of civilian and military personnel, as prescribed in Agency regulations consistent with the terms and conditions by which claims are settled and paid under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240-243);

[This language is picked up from section 325(a)(3)]

[ADD] (16) subject to policies established by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit in the conduct of the work of the Agency;

[This language is picked up from section 325(a)(3)]

[ADD] (17) training of Agency personnel and, as appropriate, personnel of other departments and agencies.

[This language is picked up from section 325(a)(2)]

* * *

[AMEND (j) to read as follows (additional language is underlined)]:

(j)(1) appoint and separate such personnel or contract for such personnel services as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments to and separations from the competitive services, and without regard to the limitations on types of persons to be employed, when approved by the Director, and fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates, but at rates not in excess of the rate authorized for Executive Schedule V by section 5315 of that title;

[These changes pick up the authority in section 325(a)(1) to contract for personnel services, and the exemptive language in 325(a)(3) as to "limitations on types of persons..."]

* * *

PROCUREMENT AUTHORITY

[AMEND section 322(a) to read as follows, with additional words underlined]:

Sec. 322(a). The Agency is authorized to procure such property, supplies, services, equipment and facilities as may be necessary to carry out its functions under this Act. Such property, supplies, services, equipment and facilities may include purchase or rental and operation of photographic reproduction, cryptographic, duplication and printing machines, equipment, and devices, and radio-receiving and radio sending equipment and devices, including telegraph and teletype equipment; rental of news-reporting services; purchase, maintenance, operation, repair, and hire of passenger motor vehicles, aircraft, and vessels of all kinds; printing and binding services; the purchase, maintenance, and cleaning of firearms, including purchase, storage, and maintenance of ammunition; association and library services and dues required by such association; supplies, equipment and personnel and contract service otherwise authorized by law or regulations, whether applicable to this Agency or not, when the Director determines that such supplies, equipment or services are essential to the performance of the Agency's functions.

[Take the remaining language in 322(a), beginning at the present line 3 with "The provisions of..." and ending at the present line 20 with "... waiver," and number this a new paragraph "(b)"; redesignate present 322(b) as "(c)."]

[These changes combine all the procurement and procurement-related authorities now in 322(a) and 325(a)(3) in a new 322(a), (b) and (c)]

* * *

AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

[DELETE the final sentence of section 325(a) - "Such purposes may include--". This language is unnecessary given the changes suggested supra that would move the provisions now in 325(a)(1), (2) and (3) to sections 321 and 322 to consolidate all related authorities.]

[AMEND the first sentence of section 325(a) to read as follows, with additional words underlined]:

(a) Notwithstanding any other provision of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out the functions authorized by this Act and for activities of an extraordinary or emergency nature, not otherwise authorized by this Act, when such expenditures are approved in advance by the Director of National Intelligence pursuant to the authority in section 122(c) of this Act. No funds may be expended for activities which have not been authorized by a law enacted during the same or immediately preceding fiscal year, except that this limitation shall not apply to funds appropriated by any continuing resolution.

[The additional language gives the Director necessary authority to expend funds for activities of an extraordinary or emergency nature; the language tracks, in pertinent part, the DNI's authority in section 122(c) of Title I. The reporting requirement is picked up by the suggested amendment infra.]

[DELETE the second sentence of section 325(b), beginning with the words "The Director shall report..." and ending with the words "... of the Senate." Then ADD the following as a new section 324(c), and redesignate the present section 325(c) as "325(d)."]:

(c) All expenditures made under authority of subsections (a) and (b) shall be reported in such manner as required by, and to the committees of the Congress designated in, section 122(c) of this Act.

[This new section 325(c) would simplify the reporting requirements for expenditures of funds as authorized in sections 325(a) and (b), by avoiding reporting by both the DNI and the Director of the Agency, while clearly requiring the funds so expended by the latter to be reported to the Congress under consistent procedures.]

5 § 7701

Note 41

Employees who are restored to duty by order of the Commission because the employing agency failed to follow the procedural requirements of former section 863 of this title were entitled to compensation for the period of such unjustified or unwarranted removals in accordance with former section 652 of this title. 1955, 34 Comp.Gen. 568.

A veteran who was restored, after an improper separation, to an excepted position in which he did not have a year of continuous service at the time of separation was not entitled to compensation for the period of separation. 1950, 30 Comp.Gen. 137.

42. — Leave

Plaintiff, a separated veteran, was entitled to pay under former section 863 of this title for the thirty-day notice period during which he was placed on an annual

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leave or leave-without-pay status. *Armand v. U. S.*, 1957, 136 Ct.Cl. 339.

Where plaintiff, entitled to veteran's preference, sues for loss of salary arising from his dismissal as a Civil Service employee in the Public Health Service Hospital in Fort Worth, and where it is shown that in his discharge and on appeal all procedural requirements were substantially complied with, including 30 days notice he was not entitled to recover except for 30 days when he was placed on annual leave without pay. *Taylor v. U. S.*, 1955, 131 Ct.Cl. 387.

Where plaintiff was placed on annual leave for the period of the 30 days notice, and was deprived of his pay during that period he was entitled as of right to pay for the period of annual leave, and is entitled to recover the amount due. *Id.*

CHAPTER 79—SERVICES TO EMPLOYEES

Sec.

- 7901. Health service programs.
- 7902. Safety programs.
- 7903. Protective clothing and equipment.

§ 7901. Health service programs

(a) The head of each agency of the Government of the United States may establish, within the limits of appropriations available, a health service program to promote and maintain the physical and mental fitness of employees under his jurisdiction.

(b) A health service program may be established by contract or otherwise, but only—

(1) after consultation with the Secretary of Health, Education, and Welfare and consideration of its recommendations; and

(2) in localities where there are a sufficient number of employees to warrant providing the service.

(c) A health service program is limited to—

(1) treatment of on-the-job illness and dental conditions requiring emergency attention;

(2) preemployment and other examinations;

(3) referral of employees to private physicians and dentists;

and

(4) preventive programs relating to health.

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SERVIC

(d) The Secretary of Health shall review a health service program and shall submit comment agency concerned.

(e) When this section applies to services of physicians, that authority shall not extend to the scope of their practice as determined by the State.

(f) The health programs shall not be affected by this section.

(1) the Tennessee Valley

(2) the Canal Zone (CZ)

(3) the Panama Canal

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 209.

Historic:

1

Derivation: United States Code, 5 U.S.C. 150

Explanatory Notes.

In subsection (a), the words "of the Government of the United States" are coextensive with and substitute for "departments and agencies, in Government-owned and controlled establishments" to avoid confusion with definitions in sections 101-105.

In subsection (d) the word "agency" in the phrase "appropriate agency" and "recommendations" is omitted. The words "to the agency concerned" are added for clarity.

In subsection (e), the substance definition of "physician" in former section 790 is substituted for the reference to that section.

This section amends 5 U.S.C. 7901 to reflect 1966 Reorganization Plan No. 2, effective June 25, 1966, 80 Stat. 1610.

No

Library references

United States Code, 5 U.S.C. 7901, 7902, 7903.

1. Preemployment examinations

Preemployment examinations by medical officers of the Veterans Administration

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SERVICES TO EMPLOYEES

5 § 7901

(d) The Secretary of Health, Education, and Welfare, on request, shall review a health service program conducted under this section and shall submit comment and recommendations to the head of the agency concerned.

(e) When this section authorizes the use of the professional services of physicians, that authorization includes the use of the professional services of surgeons and osteopathic practitioners within the scope of their practice as defined by State law.

(f) The health programs conducted by the following agencies are not affected by this section—

- (1) the Tennessee Valley Authority;
- (2) the Canal Zone Government; and
- (3) the Panama Canal Company.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 530; Pub.L. 90-83, § 1(47), Sept. 11, 1967, 81 Stat. 209.

Historical and Revision Notes

Reviser's Notes

1966 Act

Derivation: United States Code
5 U.S.C. 150

Revised Statutes and Statutes at Large
Aug. 8, 1946, ch. 865, 60 Stat. 903.
Sept. 23, 1950, ch. 1010, § 8, 64 Stat. 986.

Explanatory Notes.

In subsection (a), the words "agency of the Government of the United States" are coextensive with and substituted for "departments and agencies, including Government-owned and controlled corporations" to avoid confusion with the definitions in sections 101-105.

In subsection (d) the word "appropriate" in the phrase "appropriate comment and recommendations" is omitted as unnecessary. The words "to the head of the agency concerned" are added for clarity.

In subsection (e), the substance of the definition of "physician" in former section 790 is substituted for the reference to that section.

In subsection (f) (2) and (3), the words "Canal Zone Government" and "Panama Canal Company" are substituted for "Panama Canal" and "Panama Railroad", respectively, on the authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038.

The last proviso of the first sentence of the Act of Aug. 8, 1946, is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

This section amends 5 U.S.C. 7901 to reflect 1966 Reorganization Plan No. 3, effective June 23, 1966, 80 Stat. 1610, section

1 of which transferred all functions of the Public Health Service to the Secretary of Health, Education, and Welfare.

Notes of Decisions

Library references

United States Code § 39(5).
C.J.S. United States §§ 17, 46.

1. Preemployment examinations

Preemployment examinations by medical officers of the Veterans Administra-

tion of appointees to positions in the Veterans Administration may be made without charge to the applicant when administratively determined to be within the purview of this section. 1961, 30 Comp.Gen. 403.